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Letter dated 10 February 2006 from the Chargé d'affaires a.i. of the Permanent Mission of the Sudan to the United Nations addressed to the President of the Security Council

Upon instructions from my Government, I have the honour to forward the response of the Government of the Sudan to the report of the Panel of Experts established pursuant to paragraph 3 of Security Council resolution 1591 (2005) concerning the Sudan, issued under the symbol S/2006/65 (see annex).

I would highly appreciate it if this letter and its annex could be issued as a document of the Security Council.

(*Signed*) Omar B. **Manis**
Chargé d'affaires a.i.

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Annex to the letter dated 10 February 2006 from the Chargé d'affaires a.i. of the Permanent Mission of the Sudan to the United Nations addressed to the President of the Security Council

Response of the Government of the Sudan to the report of the Panel of Experts established pursuant to Security Council resolution 1591 (2005)*

Historical background

1. Darfur is located in the western part of the Sudan and extends over an area of about 196,000 square miles. It borders the Libyan Arab Jamahiriya, Chad and the Central African Republic.

2. Darfur is divided into the following three States: Northern Darfur, whose capital is El-Fasher; Southern Darfur, whose capital is Nyala; and Western Darfur, whose capital is Geneina.

3. The people of Darfur practise agriculture and cattle grazing.

4. Tribes in the region are divided into agricultural tribes and pastoral tribes, all of which profess Islam.

5. It has a population of about 4,746,000 and is inhabited by about 120 tribes.

History of the tribal conflicts

6. The conflict in Darfur has its roots in the competition between nomads and farmers over meagre resources. The drought and the desertification which have plagued the region since the 1970s have accentuated this competition and led to the migration of the local inhabitants of the north to the south of Darfur, and the movement of the herders from the north to the south and vice versa before and during the harvest season. This has led to frictions between farmers and nomads. The frictions were later transformed into conflicts fuelled and sustained by the following factors:

(a) The weakening of the native administration;

(b) The weak presence of an underequipped police force;

(c) Conflicts in the neighbouring States, past and present, that have helped the proliferation of small arms;

(d) Political conflicts and party rivalries;

(e) Lack of development and a weak infrastructure resulting from the limited State resources that were drained by the war in the south.

7. The drought that plagued Darfur throughout the 1980s, the factors that undermined the authority of the native administration and other socio-economic factors led to the emergence of armed groups committing robbery. In this context,

* The annexes mentioned in the present text are available for consultation in the Secretariat.

the so-called Janjaweed emerged and started to pillage and spread terror throughout the region. This situation prompted all the tribes to form armed groups to protect their people from the wrath of these outlaws, which often transformed the conflict into a tribal one.

8. The State stood up firmly and decisively to these groups, and mounted a successful military operation which led to their curtailment and ultimate disappearance. However, when the rebel movements appeared, they recruited many members of these groups, thieves and Janjaweed to fight in their ranks. They perpetrated many crimes which led to the escalation of the conflict and the deterioration of the security situation.

9. There was a strong desire to put an end to conflicts in accordance with customs, tradition and norms. But the emergence of the politically motivated rebellion has impeded that and even fuelled the conflict.

10. It is worth mentioning that the local conflicts in Darfur are not ethnically motivated despite their being widely portrayed as pitting Arabs against Africans. It suffices to recall the most prominent conflicts that broke out in Darfur during the last two decades to highlight this fact. These conflicts are as follows:

(a) Alrezeigat vs. Al Fur (Arab-African);

(b) Algimir vs. Al Fallatah (African-African);

(c) Alberty vs. Al Medoub (African-African);

(d) Alzaghawa vs. Al Meima (African-African);

(e) Alrezeigat vs. Al Maalia (Arab-Arab);

(f) Alzaghawa vs. Al Fur (African-African).

This clearly shows that the conflict in Darfur is not ethnic in the least, but even rages among members of tribes of the same origin as indicated above.

Efforts by the Government to settle the question of Darfur

11. The political aspect includes the following:

(a) A mechanism to extend the authority of the State and maintain security was established on 11 November 2003;

(b) H.E. the President appointed a representative for Darfur with broad powers;

(c) The Government has sought consistently to settle the question of Darfur through negotiation, and has held more than 10 rounds with the insurgents;

(d) The Government announced a general amnesty and released all the Darfur political detainees, including Abdul Wahid Mohamed al-Nur, one of the leaders of the Sudan Liberation Movement.

12. The social aspect includes the following:

(a) A conference was convened for the leadership of Al Fur tribe in Neiritny in August 2002;

(b) A conference was convened for all the tribes that inhabit the area around Mount Murrah in the city of Cas in June 2002;

(c) A conference was convened for all the leaders of Darfur in El-Fasher city in March 2003;

(d) A programme of reconciliation was implemented among all the Darfur tribes under the supervision and auspices of the federal Government;

(e) A conference was convened for the tribal chiefs of the people of Darfur in El-Fasher city in September 2005;

(f) The all-Darfur conference was convened in El-Fasher city in December 2005;

(g) The Government helped with the holding of three civil forums in Tripoli in 2005, all of which arrived at positive results.

13. The legal aspect includes the following:

(a) The Government formed a national fact-finding commission in Darfur under the chairmanship of Moulana Dafa'allah Yousef with a number of jurists as members;

(b) The Government established a National Criminal Court to try anyone who is proven to have been involved in the events in Darfur.

14. The development aspect includes the following:

(a) Specialized companies continued their work to complete the western highway;

(b) The rehabilitation of El-Fasher airport has been completed;

(c) Work is under way to rehabilitate the Geneina airport;

(d) The State paid special attention to education and sought to ensure that schooling continues normally throughout the school year;

(e) Commissions were set up to rebuild villages, and the work is progressing well.

Efforts to achieve a political settlement

15. The Government has worked hard to settle the Darfur crisis in its humanitarian, security and political aspects, and held several rounds of negotiations with the insurgents, although they do not represent all the people of Darfur. Rounds were conducted as follows:

(a) The Abeche negotiations, which were held in 2003 and continued until the signing of the Humanitarian Ceasefire Agreement in N'Djamena on 8 April 2004;

(b) The negotiations round held in Addis Ababa on 27 May 2004 to consolidate the Ceasefire Agreement;

(c) The Addis Ababa negotiations round held in July 2004 under the auspices of the African Union, which failed because the rebel delegation did not show up;

(d) The Abuja negotiations round held under the auspices of the African Union on 23 August 2004;

(e) The Abuja II talks, held under the auspices of the African Union on 21 October 2004, which resulted, for the first time, in the signing of the security and humanitarian protocols;

(f) The Abuja III talks, which began on 9 December 2004 and from which the members of the rebel delegation withdrew;

(g) Abuja V, which began on 10 June 2005 and concluded on 5 July 2005 with the signing of the Declaration of Principles, which forms the basis for the next round of negotiations;

(h) Abuja VI, which began on 15 September 2005;

(i) The seventh round of negotiations, which is still in progress and which, we hope, will achieve the ultimate objective.

Implications of the report of the Panel of Experts

The questions of the arms embargo

16. The report of the Panel of Experts submitted to the Sanctions Committee included indications suggesting that the Committee request an extension of the arms embargo to include all of the Sudan and not only Darfur. Focal points were identified inside the Sudan to implement the embargo. Here, we would like to indicate the following:

(a) An embargo is not usually imposed unless the Government of the Sudan is mounting intensive military operations against the rebels in Darfur. The fact of the matter, as noted by the African Union and the various successive joint committees, is that the Government forces in Darfur are totally committed to non-aggression, which means that they do not use any arms at this time and in the current conflict except in cases of self-defence;

(b) Such an embargo, if imposed, would deprive the Sudan of its right to defend its territories and its sovereignty. Hence, its territorial integrity would become vulnerable;

(c) The maintenance of security throughout the territory of the Sudan requires the Government to extend its security control all over the country, to allow the implementation of the Comprehensive Peace Agreement.

Efforts by the Government of the Sudan to cooperate with the Panel of Experts

17. Since the adoption of Security Council resolution 1591 (2005), the Government of the Sudan has pledged its full compliance with the resolution and shown readiness to cooperate fully with the Committee established pursuant to paragraph 13 thereof. Through its Permanent Representative in New York, it

continued its coordination with the Sanctions Committee. Following the decision to establish a four-member Panel of Experts stationed in Addis Ababa, the Government of the Sudan expressed its readiness to facilitate the work of the Panel, thus allowing it to fulfil its tasks with competence and efficiency.

18. To this end, the Government of the Sudan undertook the following:

(a) Established a high-level ministerial committee to deal with the resolution;

(b) Established a technical committee to follow up the work of the Panel and address any logistical problems the Panel might face;

(c) Designated a senior ambassador in the Ministry for Foreign Affairs as national coordinator for the Panel;

(d) Designated high-level focal points in all relevant Government institutions that the Panel requested to deal with, as well as focal points in Darfur States;

(e) Instructed all States and provincial agencies in Darfur to facilitate the task of the Panel;

(f) The Ministry for Foreign Affairs issued entry visas to Panel members at once, and facilitated their movement inside the Sudan;

(g) Upon arrival, at the request of the Panel and in coordination with the national coordinator, a schedule of visits and meetings was drawn up, all of which were successfully carried out;

(h) Government authorities addressed all the problems that the Panel faced, at the highest level of the Government administration;

(i) As a proof of the Government's commitment to facilitate the mission of the Panel, it facilitated high-level meetings with Government officials in different ministries, as well as the Governors of the three States in Darfur (Northern, Western and Southern Darfur);

(j) The Panel was provided with all relevant documents on the various issues that were raised, which will be addressed later;

(k) Based on the above, and having studied the final report submitted to the Committee on 6 December 2005, the Government of the Sudan has many comments to make of which we will underline the following.

The political situation

19. Paragraphs 10 to 19 of the report of the Panel of Experts discussed the political situation in general. In paragraph 10, the Panel summarized the background to the conflict in Darfur. We should reaffirm here that the conflict in Darfur is not the result of the insurgency, but is rather a strife that has continued for decades. It is driven by a conflict over resources given the different lifestyles of the protagonists (farmers and nomads). In other words, it is a competition over water and pastures, sporadically accentuated or defused because of other social interactions, and usually settled in the context of tribal customs for the settlement of disputes.

20. References in the report to marginalization and development are mere political allegations. The situation throughout the Sudan is not different from that prevailing

in Darfur. The conclusions of the report that Darfur has been a safe haven for the insurgency against the central Government are unfounded, and Darfur has never been the stage for a political movement against the central Government since independence.

21. Darfur has common borders with some neighbouring countries. The tribal structure in Darfur makes it susceptible to events that take place in its immediate vicinity. Wards and conflicts raging in neighbouring countries had their impact on the people of Darfur, who were able to access weapons with ease, and who consequently used those weapons to settle conflicts over water and pastures. The availability of weapons tempted some tribesmen, among them politicians and educated persons, to establish armed groups in order to serve their political ambitions. Discord among various political groups in the centre led to the exploitation of the people of Darfur, who were used as a stepping-stone by those aspiring to ascend to power. The situation resulted in the creation of political armed groups and movements such as the "Sudan Liberation Movement" and "Justice and Equality".

22. Paragraph 12 of the report asserts that "The government of the Sudan — overstretched by the ongoing conflict in the south of the country and fearful of how the Sudanese armed forces, which had recruited heavily from Darfur, would perform against their own people — responded by arming allied tribal militias ...".

Comment

This paragraph is completely baseless. The Sudanese armed forces are made up of Sudanese nationals from all over the country and not only of people from Darfur. These forces work to preserve security and stability in Darfur. The alleged arming of Arab tribes is not true. In accordance with established traditions, whenever there is a serious threat, citizens of a given area are mobilized for a given period, not to exceed four months, regardless of tribal affiliation, under the supervision of the federal armed forces, and at the request of the provincial authorities. The result is what we call "Popular Defence Forces", which include all the Sudanese regardless of their religious, tribal or political affiliations.

23. In paragraph 14 of its report, the Panel concluded that all the parties failed to respect the Humanitarian Ceasefire Agreement of 8 April 2004. We would like to say that the Government of the Sudan did not initiate any attack against the rebels after the conclusion of the Agreement. In this regard, we would like to recall that when the Agreement was originally signed, the rebels controlled four areas only, but after repeated violations, they managed to be in control of 65 areas. It must also be recalled that under all the agreements and protocols concluded thus far, the rebels were requested to specify which areas were under their control in order to facilitate monitoring and ceasefire compliance. These violations were the reasons behind the deterioration of the security situation in Darfur. We agree with the report that the internal leadership struggle within the rebels has been, and still is, the main obstacle to the peace negotiations (see annex I, results of the Joint Commission sessions Nos. 6, 7, 8 and 9). Note that the ninth session of the Joint Commission requested the insurgency forces to evacuate Labdu, Ishma, Qreida and Marla.

24. In paragraph 19 of the report, the Panel says that "it should be recognized that the conflict in Darfur has further polarized already strained tribal relations, is

hardening ethnic divisions between "Africans" and "Arabs", and is forcing tribes to choose between the rebels and the Government".

Comment

The struggle in Darfur is over resources and not an ethnic or a racial struggle. A case in point is the fact that conflicts raging in the Darfur region took different shapes and forms; some were Arab-Arab as in the case of the Rezeigat-Maalia conflict while others were Arab-African (Arab-Msalit January 1999). References in the paragraph cited above were repetitions of claims made by insurgency leaders and some of their supporters abroad with a view to fomenting tribal strife and ethnic tensions. It is regrettable that the Panel, which got a unique opportunity of visiting Darfur several times, found it easy, instead of presenting a professional assessment, to reproduce the same fiction echoed by some international media organs labelling the conflict as Arabs versus Africans.

Efforts by the Sudanese State in support of the political solution

25. The Government of the Sudan is committed to the political solution. It has made every effort, within the Sudan and abroad, to arrive at a peaceful solution to the conflict and bring it to an end. Our efforts included commitment to the following:

(1) Abeche ceasefire agreement of August 2003;

(2) The N'Djamena Humanitarian Ceasefire Agreement of April 2004;

(3) The African Union summit decisions on Darfur adopted in Addis Ababa in July 2005;

(4) The ceasefire agreement in Darfur of 1 June 2005;

(5) The ongoing Abuja talks which began in late 2004 and have continued to date;

(6) Security Council resolutions;

(7) United Nations-Government of the Sudan joint action plan;

(8) Accepting the expansion of the African Union Mission in the Sudan (AMIS);

(9) Consent to the use of armoured personnel carriers, 105 of which were received and are currently in use in the field by the African Union forces;

(10) Intertribal reconciliation conferences geared to mend the social fabric;

(11) The convening of the all-Darfur conference held in December 2005 in El-Fasher;

(12) Keeping Government forces in the positions they held since the signing of the Ceasefire Agreement in April 2004;

(13) Complying with the decisions of the Joint Commission on many issues including handing over of maps of Government-controlled locations;

(14) Putting in place a plan to disarm the Janjaweed militia linked to identification of the rebel positions, handed over to the competent parties in the African Union and to the site demarcation committee;

(15) Withdrawal of all attack helicopters and bomber aircraft;

(16) Acceptance of the United States plan to combat cape in coordination with the United Nations and the African Union;

(17) Convened several conferences for native administration in Darfur, designed to further the role of native administration and find a solution to the problem. The last of these conferences was held in January 2006;

(18) Established a fact-finding national commission of inquiry of highly qualified and objective personalities to investigate alleged crimes in Darfur, and in the light of the findings of the commission, the Special Criminal Court on the Events in Darfur was subsequently established;

(19) Established the Special Criminal Court on the Events in Darfur;

(20) Provided the States of Darfur with prosecutors to expedite the processes of those who were indicted before the Criminal Court;

(21) Designated internally displaced persons' camps in Darfur as safe havens. The Government secured the camps and the roads leading to them;

(22) With assistance from the technical cooperation commission of the International Committee of the Red Cross and the Human Rights Consultative Council, the Government organized training courses to promote human rights and humanitarian international law among law enforcement personnel and the citizens at large;

(23) The President and Vice-Presidents of the Republic visited Darfur repeatedly to encourage the efforts made by the States for reconstruction and development, the voluntary return of internally displaced persons and compliance with the ceasefire;

(24) The Sudan received many dignitaries, including the Secretary-General of the United Nations so that they could check first-hand the developments in Darfur;

(25) The Sudan facilitated the task of foreign media in Darfur, despite the negative and biased foreign media campaigns against the Government;

(26) The Sudan lifted all entry visa restrictions, and facilitated granting entry visas expeditiously to humanitarian aid workers as well as to members of the Panel of Experts;

(27) The Sudan gave customs exemptions and lifted all restrictions on imports for use in humanitarian assistance projects, including trucks, aircraft and communication equipment;

(28) The Government has shouldered its responsibility towards its citizens in Darfur by providing food and medicine and securing camps before and after the arrival of representatives of the international community, and continues to do so in earnest;

(29) The Government established committees to survey damages and compensate those who were adversely affected (see annex II);

(30) The Government of the Sudan accepted the deployment of monitors from the Office of the United Nations High Commissioner for Human Rights in the States of Darfur and in Khartoum;

(31) The Government accepted the credentials of the Special Representative of the Secretary-General of the United Nations on Darfur;

(32) The Government deployed a force of over 21,000 police officers in the States of Darfur to secure the camps and roads;

(33) H.E. the President of the Republic issued decree No. 3 of 2004 in which he instructed the armed forces, the police, the security forces and all other Government agencies to provide the necessary assistance to, and facilitate the work of, AMIS and the African Union Ceasefire Commission in order to enable them to fulfil their respective mandates, and to hold accountable anyone who carries out attacks on them or impedes their work.

Human rights and international humanitarian law

26. In response to allegations of violations of international humanitarian and human rights law in section VII of the report of the Panel of Experts, we draw attention to the following points:

(a) The Panel admitted that "a substantial body of information and evidence, and consideration of the facts" is based "on the balance of probabilities" and "cannot therefore be used as the sole basis for determining criminal responsibility but could be used by a competent court to further its own investigations". Despite the above, we will submit alleged incidents of violations to national courts so that they can be fully investigated;

(b) The Panel failed to underscore the efforts of the Government in pursuing both national and international remedies with regard to charges of human rights violations. True, the report commendably mentioned the Sudanese Interim National Constitution and the Special Criminal Court on the Events in Darfur, but failed to mention other mechanisms established for this purpose, including:

(1) The two criminal courts in Northern Darfur and Western Darfur (see annex III);

(2) The establishment of a special prosecution bureau for crimes against humanity (see annex IV);

(3) The committees to combat violence against women in the three Darfur States (see annex V);

(4) The committee to draft the statute of the national commission of human rights;

(5) The establishment of the Council of the Judiciary as a true guarantee of the independence of the judiciary;

(6) The establishment of a unit in the Ministry of Justice entrusted with combating violence against women.

These mechanisms reflect a genuine effort to promote and protect human rights in the Sudan (see annex VI), and highlight the sensitivity of the Government of the Sudan and its determination to combat impunity;

(c) The Government efforts in combating violence against women were also reflected in a plan that was put into effect, and unveiled during a press conference held in November 2005. The Under-Secretary of the Ministry of Justice, the Under-Secretaries of the Ministries of Humanitarian Affairs and Social Welfare, the Rapporteur of the Consultative Council on Human Rights and the representative of the United Nations Population Fund attended the press conference. A copy of the plan was given to the members of the Panel, although it was not mentioned in the report (see annex VII).

27. The report alleges (para. 181) that the Government of the Sudan and the militia groups have engaged in rape and other forms of sexual violence. Meanwhile, in paragraph 251, the report says that the situation is currently characterized by a larger number of incidents of individual human rights violations committed by organized armed groups and by individuals alike. This clearly indicates that these violations were carried out individually and as such cannot be labelled as Government policy. We also insist that the State undertook many initiatives with regard to rape and sexual violence, including the State plan to combat violence against women referred to above. In addition to that, the Government undertook the following measures:

(a) It amended criminal form No. 2, giving the treatment of the victim priority over legal procedures (see annex VIII);

(b) It issued a guide to implementation of this act in cooperation with the United Nations Mission in the Sudan (UNMIS);

(c) It established subcommittees in the States of Darfur mandated to implement the plan;

(d) Pursuant to a decree by the Minister of Justice, legal proceedings have been instituted to investigate charges of crimes committed in the States of Darfur (see annex IX);

(e) It dispatched 15 prosecutors to the States of Darfur to expedite investigations into reported cases of rape and other acts of sexual violence;

(f) The Minister of Justice established three committees to investigate crimes of rape against women in the three Darfur States;

(g) The Government began an awareness campaign on the phenomenon of violence and victims' protection in Khartoum and the Darfur States. It organized two workshops in Gneina and Nyala;

(h) It also initiated a media campaign on the subject, addressing its legal, religious and social aspects on radio and television, in the press and at public gatherings.

28. It is surprising to find references in the report to a general prevailing sense of impunity with regard to violations of human rights as well as a reference to the

"implementation gap". The Panel did receive a copy of rape statistics reports, as well as indictments against individuals in the armed and police forces, including death sentences (see annex X).

29. The Panel was given statistics of reported cases of rape and legal proceedings that did not appear in its report (see annex XI).

30. Investigations of alleged violations of human rights are under way, and are carried out in cooperation with UNMIS. A case in point is the commission of inquiry on allegations of rape in Mornei camp in Western Darfur (see annex XII).

31. During the Panel's mandate, there were instances of tribal reconciliations, as in the recent case of the village of Ghabet Hamadah (see annex XIII).

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32. Many allegations have been made with regard to this aspect and in various parts of the report. We saw it fit to respond to the most significant of these allegations in the following order:

Claim No. 1

Section V.D of the report states that weapons, military equipment, ammunition and military gear were transferred to Darfur. It alleges that the Government sought to restrict the Panel's ability to acquire information, refused to answer questions on the transfer of weapons and military and semi-military equipment and spare parts, and harassed persons assisting the Panel.

Response to the claim

(a) The armed forces did not transfer equipment, weapons, ammunition or any military gear to Darfur in the period in question. What took place was the movement of troops returning from the south to Darfur in implementation of the Comprehensive Peace Agreement and pursuant to paragraph 7 of resolution 1591 (2005), which stipulated the following exception: "These measures shall not apply with respect to assistance and supplies provided in support of implementation of the Comprehensive Peace Agreement";

(b) Some of the gear and weapons indicated were transferred in order to deal with a situation that arose on the Chad-Sudan border after the escalation by the Government of Chad against the Sudan. The matter pertains to the State's sovereignty and national security;

(c) The Government did not seek to conceal any information from the Panel and did not hinder its movement or interviews. The armed forces issued instructions to the Western Military Region Command to cooperate fully with the Panel, facilitate its movement, enable it to reach any area it sought to visit, and to provide it with all the information it required. The parties that the Panel met with were instructed to respond to all its inquiries. However, the Panel tried to contact low-ranking soldiers, who do not have information owing to their young age, low rank and limited responsibility;

(d) As for the harassment of the Panel of Experts by intelligence elements at El-Fasher airport on 21 September 2005, the Panel photographed a helicopter inside

the airport and was intercepted by members of the intelligence service because they were unaware of the identity of the Panel, which did not request permission to enter the area where that aircraft was located. Military personnel always abide by instructions prohibiting the photographing of military equipment unless they have been informed otherwise by their commanders and directed to allow a person to photograph that equipment. The personnel at the airport acted on the security instructions they received, especially since this airport was destroyed by the rebels in the past. It must be noted that a member of the Panel harmed the officer responsible for the airport with the vehicle he was driving. Other irresponsible behaviour was also exhibited. Even though the Panel of Experts was at fault by assaulting an officer and not sending any prior notification to the focal points, the injured officer conceded his individual rights out of respect for the United Nations.

Claim No. 2

33. Paragraph 109 of the report states that in the western area, forces and their weapons coming from southern Sudan were deployed in stages, the first of which was in February 2005 and the second between 11 and 16 June 2005.

Response to the claim

The aforementioned units were indeed withdrawn from Bahr el Ghazal and the Equatorial regions in southern Sudan pursuant to the time frame set in the Comprehensive Peace Agreement. The action was supervised by the ceasefire and monitoring mechanism led by the United Nations. This means that the withdrawal of these forces was done with the knowledge and supervision of the United Nations pursuant to article 18 of the ceasefire agreement signed in Naivasha on 31 December 2004 and article 3b of the security and military arrangements agreement signed in Naivasha on 25 September 2004, keeping in mind that these units are parts of the Western Military Region. The unit's members are residents of the region; their homeland, residence and families are located there.

Claim No. 3

34. Paragraph 113 of the report states that in the city of El-Fasher on 24 September 2005, the Government of the Sudan organized a show of strength in which a large convoy of Government forces roamed the city and circled the Abushouk and Dar es Salaam camps for internally displaced persons. The convoy was comprised of 2 tanks, 35 Land Cruisers and 18 trucks all carrying soldiers. Some of the vehicles were equipped with mortar cannons, multi-barrel rocket launchers and machine guns (12.5 mm). The forces were also armed with regular AK 47 rifles and rocket-propelled grenade launchers.

Response to the claim

That was simply a military parade the armed forces hold annually on the anniversary of the assumption by the first Sudanese officer of the post of commander general of the armed forces on 14 August 1955. Every military region is given the discretion to hold its celebrations on the date that suits the conditions of the region. This is what prompted the El-Fasher command to hold the parade on 24 September 2005, unless the Panel of Experts wants to bury the traditions of national institutions.

Claim No. 4

35. Paragraphs 114 to 116 of the Panel's report state that the Panel members observed a total of three Sudanese air force Mi-24 attack helicopters in Darfur during its initial visit in August 2005. In a subsequent interview with the Commander in Chief of the Sudanese air force, General Mohamed Abdul Gadim, and the Director of Operations of the Sudanese air force, General Ibrahim El Bushra, the Panel was informed that the two attack helicopters based in Nyala had been withdrawn to demonstrate the Sudanese Government's desire to comply with Security Council resolution 1591 (2005). Subsequently, following the Sudan Liberation Army (SLA) attack on Sheria, Southern Darfur, on 19 and 20 September 2005, at least one, and perhaps two attack helicopters were reintroduced into Darfur. On 21 September 2005, two Panel members observed another Mi-24 attack helicopter at El-Fasher airport; the Commander of the Western Region stated that the helicopter was redeployed from Khartoum. It later transpired that the Government of the Sudan had decided to redeploy six Mi-24 attack helicopters, which it withdrew earlier as a gesture of its compliance with the ban imposed by the Security Council. The weapons were recorded and during the Panel's last visit to Darfur in November, the helicopters were at El-Fasher, Nyala and Geneina airports.

Response to the claim

Helicopters had been stationed at the airports of Nyala, El-Fasher and Geneina before resolution 1591 (2005) banning flights was passed. The helicopters are not attack aircraft and are used to evacuate the wounded, follow the movement of commanders and conduct surveillance and monitoring along the border.

Claim No. 5

36. Paragraph 119 of the report states that the Panel received information from several sources describing the recent use of white vehicles and white aircraft by the Sudanese armed forces in Darfur. The Panel has been provided with photographic evidence of the use of white vehicles by the Government's forces. A member of the Panel witnessed a convoy of three Land Cruisers, mounted with machine guns, operating around El-Fasher, etc.

Response to the claim

There are 20 white vehicles that were sent to Darfur before they were painted with the colours of the Sudanese armed forces because of the urgent need for them there. Moreover, there are no permanent car painting shops in the Western Military Region. It must be kept in mind that these vehicles were dispatched before the resolution imposing the ban was passed. The purpose of sending them was not a desire for camouflage or to confuse them with the African Union's vehicles. Moreover, there are many white vehicles owned by civilians, including citizens and Government institutions. In addition, there is a private airline that has been using white aircraft since the problem in Darfur began and has been contracted by the African Union since then. The armed forces do not own any white aircraft except for the presidential aircraft. These vehicles and aircraft did not bear any African Union emblem.

Claim No. 6

37. Paragraph 123 of the report states that in September 2005, the African Union reported unannounced aircraft landings and departures at El-Fasher and Nyala airports at night when they are officially closed and inaccessible to African Union monitors.

Response to the claim

There were no nighttime takeoffs or landings except for evacuation, most of which was to evacuate soldiers from the African Union and our forces who were wounded by rebel fire or in ordinary traffic accidents.

Claim No. 7

38. Paragraph 148 of the report states that in El-Fasher on 29 September 2005, a Government convoy comprising 41 large trucks and 9 Land Cruiser vehicles stopped at the village of Tawilla in Northern Darfur en route from El-Fasher to Kabkabiya. Elements in the convoy and Government police undertook a coordinated attack on Tawilla village.

Response to the claim

It appears that the dramatic portrayal of the Tawilla incident aims to gain sympathy for the recipient, otherwise it would not have been narrated in this manner. We want to point out here that there is a cause for every action. The report indicated that Government and police forces attacked Tawilla even though the Panel knows that Tawilla is a Government post and under Government control. What actually happened was that the rebels were controlling a water point outside the city and seized a police vehicle that had gone there to draw water in coordination with some elements who had sneaked into the city. Police forces in Tawilla pursued the elements inside the city and the buildings in which they sought refuge. These events coincided with the passage of an armed forces convoy. The convoy did not participate in the fighting between the rebels and the police forces. Therefore, the claims have no basis in reality.

Claim No. 8

39. Paragraphs 196 and 197 of the Panel's report state that a group of armed men presumed to be SLA soldiers attacked a Government military contingent while it was escorting a convoy of 15 civilian trucks along the El-Fasher-Nyala road on 23 July 2005. The military officer in charge of the detachment and two soldiers were killed in the attack. The armed SLA soldiers seized the Government military vehicle and its equipment. This incident prompted the military command at Nyala to launch an attack on the area alleged to harbour SLA forces.

Response to the claim

On 23 July 2005, a highway patrol on the Umm-Drisay-Manwashi road was ambushed at km 93, which led to the martyrdom of Captain Hasan Mohamed Al-Hadi and two other persons. The ambush coincided with the passing of an administrative convoy coming from El-Fasher, which pursued the perpetrators with the assistance of surveillance aircraft. The rebels were driven out of the area and

prevented from perpetrating more attacks. This incident was investigated by the African Union and the rebellion was condemned. What the Government forces did was in reaction to the rebels' actions according to the statement submitted to the Panel of Experts.

Claim No. 9

40. Paragraphs 207 to 209 of the report document events that took place on 23 August 2005, at approximately 1500 hours, when a group of armed men from SLA attacked a group of Arab nomads using six vehicles (three smaller vehicles and three trucks). The SLA members employed machine guns and assault rifles in the attack. Upon hearing gunfire from the attack, Government of the Sudan soldiers went to the location and assisted the Arab nomads in the engagement. At least three civilians were wounded in the attack, seven camels were killed and an unknown number of camels were stolen by the attacking SLA forces. Two vehicles used by SLA were captured during the attack. The SLA commander maintained that the attack was undertaken in reprisal for an earlier attack perpetrated by Government soldiers in Timotiri and Turba.

Response to the claim

At 1730 hours on 23 August 2005, 200 men of the Darfur rebels supported by 5 vehicles attacked Al-Malam village and stole a large number of camels (around 3,100). The armed forces carried out their duty by protecting the citizens and expelling the rebels from the village. This incident was the spark that inflamed the nomadic Arabs and prompted the subsequent reactions. It was reported to the African Union, the Joint Commission and the international community. Requests were made to recover stolen property before things got out of hand. It should be noted here that the first to aggress in this case, according to the Panel, was the rebels and not the Government.

Claim No. 10

41. Paragraph 212 of the report documents an attack on 31 villages in the Tarni area of the Tawilla district. The attackers were Arab militias supported by Government soldiers in military Land Cruiser vehicles.

Response to the claim

Tawilla is under Government control and the area was not the scene of any attack on the reported date. How could the Government attack its loyal citizens? Furthermore, the number of villages in this area does not exceed 11, and in no way equals the number referred to in the paragraph cited above.

Claim No. 11

42. Paragraph 270 states: "To the extent that Military Intelligence and National Security personnel continue to arbitrarily detain, expose to physical and psychological abuse, and torture citizens, ...".

Response to the claim

The Military Intelligence does not detain or arrest citizens and its different offices and branches have clear instructions in this regard. On the other hand it maintains excellent relations with the population and endeavours to supply them with the basic services.

Claim No. 12

43. Paragraph 257 refers to arbitrary detention in Northern and Southern Darfur.

Response to the claim

(a) During the period of the work of the Panel of Experts, no person has been arrested in Northern Darfur. The Director of National Security for Northern Darfur confirmed this in his meeting with the members of the Panel of Experts in El-Fasher on 3 September 2005. The meeting was also attended by a United Nations security officer;

(b) In Southern Darfur, there are two groups of detainees. The individuals in the first group have been arrested for crimes related to violations of humanitarian law. These arrests have been carried out with the full knowledge of the prosecutor of Southern Darfur. It is to be recalled that the Government of the Sudan is asked by the resolutions of the Security Council to put an end to impunity and hold accountable the violators of humanitarian law and human rights law;

(c) The second group of detainees comprises mercenaries sent by the Government of Chad to fight with the rebels. The African Union has been informed of this group;

(d) The members of the Panel of Experts were provided with lists of the two groups in the meeting with the Sudanese authorities in the Ministry for Foreign Affairs on 26 October 2005, together with a detailed explanation of the above information;

(e) The Committee needs to address this serious contradiction between the fulfilment by the Government of the Sudan of its obligations under the resolutions of the Security Council and the interpretation of those acts by the Panel of Experts as arbitrary detention and violations of resolution 1591 (2005).

Claim No. 13

44. Paragraph 16 of annex II to the Panel's report states: "The Ministry of the Interior trains and deploys to Darfur combat-trained central reserve police forces, known locally as 'police soldiers'. While these troops are nominally part of the Sudanese police hierarchy, they can be, and have been, used in joint combat operations under the tactical control of the Sudanese Army".

Response to the claim

(a) This is another flagrant contradiction which proves that the Panel of Experts is either unaware of the obligations and commitments of the Government of the Sudan to the United Nations and the Security Council, or it is determined to twist facts for the purpose of incriminating the Government of the Sudan;

(b) The members of the Security Council are aware that in the Darfur action plan agreed between the Government of the Sudan and the United Nations in July 2004, the Government of the Sudan pledged to deploy 20,000 police officers in Darfur to provide security in and around the internally displaced persons camps;

(c) In this regard, the central reserve police forces are an integral part of the federal police and have been deployed in Darfur according to the Darfur action plan, and they have never been engaged in combat operations with the armed forces. Their presence in Darfur is based on an agreement between the African Union and the United Nations with the clear mandate to protect the internally displaced persons camps and the civilian population from the attacks of the rebels, which often target even the police forces themselves.

Claim No. 14

45. Paragraph 131 states: "In this context, the Panel notes that if left uncontrolled, the route from the Libyan Arab Jamahiriya into the Sudan is a prospect for shipment of arms and military supplies into the Sudan ...".

Response to the claim

We would have expected that the Panel would consider in depth this serious threat to security and the peace process and suggest concrete measures to control the possible flow of arms. Instead, the Panel found it easy to recommend the extension of the arms embargo to other irrelevant areas in the Sudan such as Port Sudan and the Giad factory, areas which do not constitute a threat of flow of arms as does the triangle of borders with the Libyan Arab Jamahiriya, controlled by the rebels.

Response to the recommendations of the Panel

46. Paragraph 272 calls for the adoption of measures against members of the Government of the Sudan for their failure to disarm the militias.

Response

The Government of the Sudan has reacted positively to all the provisions of the resolutions of the Security Council. In this context, it has presented to the African Union Joint Ceasefire Commission in Darfur an action plan for the disarmament of the militias. The Ceasefire Commission, chaired by Chad and having the African Union, the United Nations, the Darfur parties and members of the international community as members, has endorsed the disarmament plan presented by the Government of the Sudan. It has been agreed in the Ceasefire Commission that the disarmament be implemented under the following terms:

(a) All parties should stay in the areas of their control;

(b) All parties should identify the areas of their control and provide the Ceasefire Commission with maps of those areas in order to enable it to monitor the ceasefire accordingly;

(c) After the implementation of (a) and (b) there shall be a simultaneous disarmament of the militias and the rebels.

The Government of the Sudan has strictly respected the disarmament plan by keeping its forces in their areas, identifying those areas and providing the African Union Ceasefire Commission with the maps. The rebel movements refused to identify their areas and refused to provide the maps. The Joint Ceasefire Commission at its sixth, seventh, eighth and ninth sessions has urged the rebels to comply with that necessary condition for disarmament.

The Government of the Sudan is determined and committed to the disarmament of all militias provided that the rebels identify and stay in their areas of control. If they do so, the Government is prepared to undertake with them and the forces of the African Union joint operations to disarm the militias. This proposal was presented to the Ceasefire Commission at its ninth session and was approved. The Government presented it again to the meeting of the African Union Peace and Security Council of 12 January 2006.

47. Paragraph 277 refers to the possibility of "establishing a prohibition on the operation by the Government of the Sudan of all military aircraft in Darfur ...".

Response

Owing to the insecurity caused by the rebels throughout the region and the lack of accessible roads and basic infrastructure, light aircraft are the only viable means of supply to the civilian population, the army, the police, the African Union, the United Nations and non-governmental organizations. Ninety per cent of the movements of African Union forces are carried out by air. Therefore the above recommendation could impact negatively on the lives of the civilian population.

It is interesting to note that the Panel itself recognized the importance of air transportation in Darfur in paragraph 75 of its report: "The Panel encountered travel constraints within Darfur ... and also owing to logistical constraints (e.g. occasional fuel shortages; unavailability of aircraft ...".

General observations

48. The report overlooked thoroughly documented information provided by the Government, which was collected in a professional — not political — manner. The report made only a few vague references to the information provided.

49. The report was extremely biased against the Government of the Sudan, which it held accountable for certain incidents the responsibility for which could not be ascertained by any African Union or other investigation. It appeared bent on collecting information to condemn the Government with a view to proving its non-compliance with some of the provisions of Security Council resolution 1591 (2005).

50. The report depended in many occasions on hypotheses, secondary reports and oral testimonies, and failed to provide evidence and specific incidents. We cite by way of example references to restricting the access of African Union personnel to Altina airport on 26 September 2005. The party concerned, in this case the African Union, present throughout the area, including in Altina, did not report the incident.

51. The Panel depended on fallacious information drawn from organizations that were under criminal investigation. The countries of some of these organizations

submitted official apologies. A case in point is what happened with the Netherlands chapter of Doctors without Borders in August 2005.

52. As a gesture of good faith and cooperation, the Government of the Sudan handed the Panel files of the information requested, in Arabic and English, that did not deserve a cursory mention in the report. The Sudan is ready to hand over the files to the Committee if requested to do so. The files are:

(a) A file on the violations of international humanitarian law by the rebel movements since July 2004;

(b) A file on the financing of the rebel movement;

(c) A file on the efforts of the National Intelligence and Security Service to settle the problem of Darfur;

(d) A file on the events of Khor Abeche in Southern Darfur;

(e) A file on the events of Shangil Tobayi and a compilation of media reports on those events;

(f) A file on the events of Gereida in Southern Darfur;

(g) A file on the events of Sheria in Southern Darfur;

(h) A file on the events of Al-Malam;

(i) A file on the attacks on the National Intelligence and Security Service and its assets in Darfur;

(j) A file on the Chadian support to the rebels and names of the Chadian personalities involved therein;

(k) A file on the Ugandan support to the rebels and the Ugandan personalities involved therein;

(l) A list of rebel leaders who have violated human rights and international humanitarian law;

(m) A report on the Eritrean support to the Darfur rebels and a list of Eritrean officials involved therein;

(n) Information requested from the National Intelligence and Security Service handed over to the members of the Panel through the Ministry for Foreign Affairs.

53. Some serious events took place while the Panel was in the Sudan or during the period of its mandate, but the Panel did not give them due consideration. Examples of these events are the rebel occupation of Sheria and Dreisa as well as the continued occupation of Gereida, Labado, Marla and Ishma. The Government has withdrawn its forces from the latter areas with the understanding that they will be under the control of the African Union, but the rebels have occupied the areas and continued to refuse appeals by the Ceasefire Commission to evacuate.

54. On the issue of white vehicles, though the rebels are using white vehicles taken from the African Union, and though there are, in Darfur, white aircraft that do not belong to the armed forces, the Panel has neglected these facts and concentrated on singling out the Government for using white vehicles.